

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL

No. 1704

Introduced by Senator Kuehl

February 24, 2006

An act to amend Sections ~~127662~~ 127660, 127662, 127664, and 127665 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1704, as amended, Kuehl. Health care benefits.

Existing law requests the University of California to assess legislation proposing ~~mandated health care benefits~~ *a mandated health benefit or service, as defined*, to be provided by health care service plans and health insurers, and to prepare a written analysis in accordance with specified criteria.

This bill would, instead, request the University of California to assess legislation proposing to mandate a benefit or service, and legislation proposing to repeal a mandated service or benefit, as defined, and to prepare a written analysis in accordance with specified criteria.

Existing law further requests the University of California to develop and implement conflict-of-interest provisions that would prohibit a person from participating in any analysis in which he or she knows or has reason to know he or she has a material financial interest.

Existing law requests the University of California to submit a report to the Governor and the Legislature no later than January 1, 2006, regarding the implementation of the aforementioned provisions.

This bill would request the University of California to submit another such report to the Governor and the Legislature by January 1, 2010.

Existing law provides funding for the University of California's implementation of these provisions from fees imposed upon health care service plans and health insurers, which would not exceed a total of \$2,000,000, and are to be deposited in the Health Care Benefits Fund.

This bill would extend to January 1, 2011, the repeal date of those provisions, and would authorize the continued imposition of that fee through the 2009–10 fiscal year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 127660 of the Health and Safety Code is*
2 *amended to read:*

3 127660. (a) The Legislature hereby requests the University
4 of California to assess legislation proposing ~~a mandated~~ to
5 *mandate a benefit or service*, as defined in subdivision ~~(d)~~ (c),
6 *and legislation proposing to repeal a mandated benefit or*
7 *service, as defined in subdivision (d)*, and to prepare a written
8 analysis with relevant data on the following:

9 (1) Public health impacts, including, but not limited to, all of
10 the following:

11 (A) The impact on the health of the community, including the
12 reduction of communicable disease and the benefits of
13 prevention such as those provided by childhood immunizations
14 and prenatal care.

15 (B) The impact on the health of the community, including
16 diseases and conditions where gender and racial disparities in
17 outcomes are established in peer-reviewed scientific and medical
18 literature.

19 (C) The extent to which the ~~proposed benefit or service~~
20 reduces premature death and the economic loss associated with
21 disease.

22 (2) Medical impacts, including, but not limited to, all of the
23 following:

24 (A) The extent to which the benefit or service is generally
25 recognized by the medical community as being effective in the
26 screening, diagnosis, or treatment of a condition or disease, as

1 demonstrated by a review of scientific and peer reviewed medical
2 literature.

3 (B) The extent to which the benefit or service is generally
4 available and utilized by treating physicians.

5 (C) The contribution of the benefit or service to the health
6 status of the population, including the results of any research
7 demonstrating the efficacy of the benefit or service compared to
8 alternatives, including not providing the benefit or service.

9 (D) The extent to which *mandating or repealing the proposed*
10 *benefits or services* ~~do~~ *would* not diminish or eliminate access to
11 currently available health care *benefits or services*.

12 (3) Financial impacts, including, but not limited to, all of the
13 following:

14 (A) The extent to which the coverage *or repeal of coverage*
15 will increase or decrease the benefit or cost of the *benefit or*
16 *service*.

17 (B) The extent to which the coverage *or repeal of coverage*
18 will increase the utilization of the benefit or service, or will be a
19 substitute for, or affect the cost of, alternative *benefits or*
20 *services*.

21 (C) The extent to which the coverage *or repeal of coverage*
22 will increase or decrease the administrative expenses of health
23 care service plans and health insurers and the premium and
24 expenses of subscribers, enrollees, and policyholders.

25 (D) The impact of this coverage *or repeal of coverage* on the
26 total cost of health care.

27 (E) The potential cost or savings to the private sector,
28 including the impact on small employers as defined in paragraph
29 (1) of subdivision (l) of Section 1357, the Public Employees'
30 Retirement System, other retirement systems funded by the state
31 or by a local government, individuals purchasing individual
32 health insurance, and publicly funded state health insurance
33 programs, including the Medi-Cal program and the Healthy
34 Families Program.

35 (F) The extent to which costs resulting from lack of coverage
36 *or repeal of coverage* are *or would be* shifted to other payers,
37 including both public and private entities.

38 (G) The extent to which *mandating or repealing the proposed*
39 *benefit or service* ~~does~~ *would* not diminish or eliminate access to
40 currently available health care *benefits or services*.

1 (H) The extent to which the benefit or service is generally
2 utilized by a significant portion of the population.

3 (I) The extent to which health care coverage for the benefit or
4 service is already generally available.

5 (J) The level of public demand for health care coverage for the
6 benefit or service, including the level of interest of collective
7 bargaining agents in negotiating privately for inclusion of this
8 coverage in group contracts, and the extent to which the
9 mandated benefit or service is covered by self-funded employer
10 groups.

11 (K) In assessing and preparing a written analysis of the
12 financial impact of ~~a mandated benefit~~ *legislation proposing to*
13 *mandate a benefit or service and legislation proposing to repeal*
14 *a mandated benefit or service* pursuant to this paragraph, the
15 Legislature requests the University of California to use a certified
16 actuary or other person with relevant knowledge and expertise to
17 determine the financial impact.

18 (b) The Legislature requests that the University of California
19 provide every analysis to the appropriate policy and fiscal
20 committees of the Legislature not later than 60 days after
21 receiving a request made pursuant to Section 127661. In addition,
22 the Legislature requests that the university post every analysis on
23 the Internet and make every analysis available to the public upon
24 request.

25 ~~(e) The Legislature requests that the University of California~~
26 ~~first analyze any of the following benefit mandates proposed in~~
27 ~~the 2001–02 Legislative Session, if introduced or proposed to be~~
28 ~~introduced at the start of the 2003–04 Legislative Session, and a~~
29 ~~request for an analysis is made by the author or the relevant~~
30 ~~policy committee chair:~~

- 31 ~~(1) Bone marrow testing for prospective donors.~~
32 ~~(2) Infertility treatment.~~
33 ~~(3) Specified ovarian cancer screening and diagnostic tests.~~
34 ~~(4) Medically necessary prescription drugs.~~
35 ~~(5) Wigs for patients who have undergone chemotherapy.~~
36 ~~(6) Bone mineral density testing for osteoporosis.~~
37 ~~(7) Hearing aids.~~
38 ~~(8) Hyperbaric oxygen therapy for an acute or chronic brain~~
39 ~~condition.~~
40 ~~(9) Substance-related disorders.~~

1 ~~(10) Genetic disease tests for certain populations.~~

2 ~~(d)~~

3 (c) As used in this section, ~~“mandated~~ *“legislation proposing*
4 *to mandate a benefit or service”* means a proposed statute that
5 requires a health care service plan or a health insurer, or both, to
6 do any of the following:

7 (1) Permit a person insured or covered under the policy or
8 contract to obtain health care treatment or services from a
9 particular type of health care provider.

10 (2) Offer or provide coverage for the screening, diagnosis, or
11 treatment of a particular disease or condition.

12 (3) Offer or provide coverage of a particular type of health
13 care treatment or service, or of medical equipment, medical
14 supplies, or drugs used in connection with a health care treatment
15 or service.

16 (d) As used in this section, *“legislation proposing to repeal a*
17 *mandated benefit or service”* means a proposed statute that
18 *repeals an existing requirement that a health care service plan or*
19 *a health insurer, or both, do any of the following:*

20 (1) Permit a person insured or covered under the policy or
21 contract to obtain health care treatment or services from a
22 particular type of health care provider.

23 (2) Offer or provide coverage for the screening, diagnosis, or
24 treatment of a particular disease or condition.

25 (3) Offer or provide coverage of a particular type of health
26 care treatment or service, or of medical equipment, medical
27 supplies, or drugs used in connection with a health care
28 treatment or service.

29 **SECTION 1.**

30 SEC. 2. Section 127662 of the Health and Safety Code is
31 amended to read:

32 127662. (a) In order to effectively support the University of
33 California and its work in implementing this chapter, there is
34 hereby established in the State Treasury, the Health Care
35 Benefits Fund. The university’s work in providing the bill
36 analyses shall be supported from the fund.

37 (b) For fiscal years 2006–07 to 2009–10, inclusive, each
38 health care service plan, except a specialized health care service
39 plan, and each health insurer, as defined in Section 106 of the
40 Insurance Code, shall be assessed an annual fee in an amount

determined through regulation. The amount of the fee shall be determined by the Department of Managed Health Care and the Department of Insurance in consultation with the university and shall be limited to the amount necessary to fund the actual and necessary expenses of the university and its work in implementing this chapter. The total annual assessment on health care service plans and health insurers shall not exceed two million dollars (\$2,000,000).

(c) The Department of Managed Health Care and the Department of Insurance, in coordination with the university, shall assess the health care service plans and health insurers, respectively, for the costs required to fund the university's activities pursuant to subdivision (b).

(1) Health care service plans shall be notified of the assessment on or before June 15 of each year with the annual assessment notice issued pursuant to Section 1356. The assessment pursuant to this section is separate and independent of the assessments in Section 1356.

(2) Health insurers shall be noticed of the assessment in accordance with the notice for the annual assessment or quarterly premium tax revenues.

(3) The assessed fees required pursuant to subdivision (b) shall be paid on an annual basis no later than August 1 of each year. The Department of Managed Health Care and the Department of Insurance shall forward the assessed fees to the Controller for deposit in the Health Care Benefits Fund immediately following their receipt.

(4) "Health insurance," as used in this subdivision, does not include Medicare supplement, vision-only, dental-only, or CHAMPUS supplement insurance, or hospital indemnity, accident-only, or specified disease insurance that does not pay benefits on a fixed benefit, cash payment only basis.

SEC. 3. Section 127664 of the Health and Safety Code is amended to read:

127664. The Legislature requests the University of California to submit a report to the Governor and the Legislature ~~no later than by January 1, 2006~~ 2010, regarding the implementation of this chapter. ~~Initial startup funding for the university shall be loaned to the Health Care Benefits Fund from the Managed Care Fund created pursuant to Section 1341.4 and the Insurance Fund~~

1 ~~created pursuant to Section 12975.8 of the Insurance Code. The~~
2 ~~Health Care Benefits Fund shall reimburse the Managed Care~~
3 ~~Fund and the Insurance Fund by September 30, 2003, from the~~
4 ~~2003-04 fiscal year assessments received under subdivision (b)~~
5 ~~of Section 127662. The annual fee for the 2002-03 fiscal year~~
6 ~~shall be collected at the time the 2003-04 fiscal year assessments~~
7 ~~are made.~~

8 ~~SEC. 2.~~

9 *SEC. 4.* Section 127665 of the Health and Safety Code is
10 amended to read:

11 127665. This chapter shall remain in effect until January 1,
12 2011, and shall be repealed as of that date, unless a later enacted
13 statute that becomes operative on or before January 1, 2011,
14 deletes or extends that date.